

Department of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
Baltimore County, Maryland

In the Matter of

Civil Citation No.79857

Kazimeriz Zochowski  
Barbara Zochowski

7001 Gough Street

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 28, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) 13-7-305, 307, failure to maintain premises in a rat free condition and to eliminate rat harborages under and/or around the shed; section 13-4-201, 12-7-309, 13-7-310, failure to maintain property free of animal feces on residential property zoned DR 10.5 known as 7001 Gough Street, 21224.

On June 23, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector David Gaine issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1<sup>st</sup> class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$4,500.00 (four thousand five hundred dollars).

The following persons appeared for the Hearing and testified: Kazimeriz and Barbara Zochowski, Respondents; Gary Thompson, Supervisor of Disease Control for the Baltimore County Health Department and, David Gaine, Baltimore County Code Enforcement Officer. Aaron Burch, Assistant County Attorney, appeared on behalf of Baltimore County.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on June 23, 2010 for removal of animal feces daily, unsanitary conditions, remove bird seed/other food for rats. This Citation was issued on June 23, 2010.

B. Inspector David Gaine testified that his inspection found a large number of pigeons being kept in coops behind this residential townhouse, and found significant quantity of pigeon feces and spilled seed. He testified that his re-inspection on June 23, 2010 found that some effort had been made to clean up the premises, but that there were so many birds that cleanup was not possible. He further testified that the County is spending thousands of dollars on rat extermination in this development and in three other housing developments. He further testified that pigeons are depositing feces on neighboring properties as they roost on wires and travel.

C. Gary Thompson, Baltimore County Health Department, testified that this quantity of bird feces is a public health hazard because of the many diseases carried in bird droppings. He further testified that there is a risk that particles will become airborne, with the aerosolization of droppings, and that people will become sick from inhaling contaminants.

D. Respondent Kazimeriz Zochowski testified that he has had pigeons for over ten years and this is his hobby. He testified that he has about forty-eight pigeons, but wild pigeons also come for food and shelter and there may be 120 pigeons in the yard.

E. Photographs in the file show a large shed that is outfitted inside as a pigeon coop, plus multiple small cages stacked next to the fence. Photographs show multiple birds in the coops, cages and on the ground. Photographs show the sidewalk in front of the coop is covered in bird droppings and feathers. The evidence shows that there is also spilled seed on the ground and accessible to wild animals.

F. Removal of food sources for rats is important to protect Respondents' neighborhood. County law is very specific about animal and bird feed. County Code Section 13-7-310 provides, (1) Animal and bird feed that may become a food source for rodents shall be stored in covered rat-proof

containers, and (2) A person may not feed animals or birds in a manner that the food constitutes a source of rodent food. By leaving birdseed for the pigeons on the ground and accessible to wild pigeons, Respondents have violated this law and are providing food for rats. This Citation will be enforced.

G. County law also prohibits the accumulation of pigeon feces that is clearly present in this backyard. Respondents are required to “(1) Maintain the premises in a clean, safe and sanitary condition; (2) Store rubbish and garbage in a clean and sanitary manner in trash receptacles for disposal on designated collection days so that it does not pose a threat to the health, safety or welfare of the occupants or immediate neighbors; and (3) Maintain the premises in a sanitary condition free from infestation.” Section 35-5-302. By keeping these pigeons, Respondents have made their property and that of their neighbors unsanitary, because of the large quantity of bird feces deposited by the pet pigeons and the wild pigeons that are being attracted to the improper feeding. This Citation will be enforced.

H. While the Citation does not specifically charge this violation, County zoning regulations do not permit Respondents to keep pigeons on this property. A person may not house fowl, including chickens, ducks, turkeys, geese, and pigeons, within a residential area less than 1 acre in size. BCZR Section 100.6. Respondents’ property is 2600 square feet in size, or 0.059 acres. Because the zoning regulations prohibit the keeping of pigeons on the property, this Final Order will require the removal of the pigeons as part of the corrective action required to correct the violations noted above. BCC Section 3-6-207.

I. It should be noted that the County’s zoning regulation was amended in 2009 to specifically include pigeons; previously, the regulation restricted the keeping of “fowl or poultry” and specifically listed only chickens, ducks, turkeys and geese. Respondents testified that they have been keeping pigeons for ten years, and testimony was presented stating that Respondents have been very cooperative with County inspectors and other staff. For these reasons, additional time will be provided for Respondents to remove the pigeons, so Respondents can find an alternative location, and the civil

penalty will be rescinded if the violations are corrected within the time provided below. Respondents are advised that if pigeons remain on the property after the deadline set below, they will be subject to the full civil penalty and also to additional Citations with additional civil penalties.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$4,500.00 (four thousand five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violations are corrected:

- (1) by August 16, 2010 excess pigeon feces and scattered seed collected to the extent possible and put with garbage, in cans with tight lids (Respondents are cautioned that they may not use water to wash the waste into the alley, street or neighboring properties);
- (2) by August 16, 2010 to the extent possible, bird seed accessible only to captive pigeons and not to wild pigeons
- (3) by September 13, 2010 all pigeons removed from the property.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 30<sup>th</sup> day of July 2010

Signed: ORIGINAL SIGNED  
Margaret Z. Ferguson  
Baltimore County Hearing Officer

**NOTICE TO RESPONDENT:** The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf